



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161805

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed November 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined the Petitioner's FoodShare benefits effective November 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Thao-Xiong Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 21, 2014, the Petitioner called the agency to conduct his FoodShare renewal/review. (Exhibit 4, pg. 5)

3. On October 27, 2014, the agency sent the Petitioner a notice advising him that effective November 1, 2014, he would receive \$68.00 per month in FoodShare benefits. (Exhibit 4, pgs. 23-27)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 10, 2014. (Exhibit 1)
5. Petitioner's assistance group consists of one person, himself. (Exhibit 4, pgs. 13, 14 and 15)
6. At the time of his October 2014, renewal, the Petitioner paid \$450.00 in rent, which included heat. (Testimony of Petitioner; Exhibit 4, pgs. 13-14)
7. Petitioner receives \$83.78 per month in State SSI and \$648.90 per month in Federal SSI. (Testimony of Petitioner; Exhibit 4, pgs. 11 and 12) This totals \$732.68.
8. Petitioner pays for a phone bill. (Testimony of Petitioner)
9. Beginning December 1, 2014, Petitioner's rent went up to \$560.00 per month and includes heat. (Testimony of Petitioner; Exhibit 2)

### DISCUSSION

Petitioner filed an appeal to contest the reduction of his FoodShare benefits.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (FSH, at § 4.6):

- (1) a standard deduction –

Effective October 1, 2014, this was \$155.00 for an assistance group of 1-3 people, 7 CFR § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 CFR § 273.9(d)(2);

Petitioner does not have any earned income, so this would not apply to him.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

Petitioner did not report any out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

Petitioner did not report any child care expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

There is a cap on this deduction of \$490 per month, unless the recipient is elderly, blind or disabled, meaning a food unit member age 60 or older or a person who receives disability or blindness benefits from any of these programs: SSA, MA, SSI or SSI related MA, Railroad Retirement Board (RRB ). FSH, §3.8.1.1.

FSH, §§ 4.6.7.1 and 8.1.3.

Previously, Federal Regulations allowed households who received at least \$1.00 in energy assistance to receive an income deduction for the Heating Standard Utility Allowance (HSUA). (Ops Memo 14-16) In 2009, the State of Wisconsin issued an annual energy assistance payment of \$1.00 to FoodShare households who did not already receive energy assistance. (Id.) This allowed all households to receive an income deduction for the HSUA, which is currently, \$446. (Id.)

The 2014 Farm Bill changed the Federal Regulations to require households to receive greater than \$20 in energy assistance, in order to receive the \$446 HSUA. (Ops Memo 14-16) Consequently, Effective April 1, 2014, the State of Wisconsin stopped providing the \$1.00 energy assistance to households not who were not receiving energy assistance. (Id.) Consequently, many of those households, like the Petitioner's, lost the HSUA deduction, because they neither received Energy Assistance, nor did they pay a separate heating utility bill.

Petitioner testified that the only utility that he pays for is a phone bill. Consequently, he would be allowed a \$30.00 phone utility allowance, per *FSH §4.6.7.3*

Applying the applicable deductions to Petitioner's income we have the following net income calculation for November 1, 2014:

Gross Income	\$732.68	Rent	\$450.00
No Earned Income Deduction		PUA	+\$30.00
Standard Deduction	-\$155.00	50% Net income	-\$288.84
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$191.16
<hr/>			
Net Income	\$577.68		
Excess Shelter Expense	- \$191.16		
<hr/>			
Net Income	\$386.52		

Individuals, in a household of one, with a net income of \$386.52 qualified for a FoodShare allotment of \$78.00 per month. *FSH §8.1.2*

Because the agency did not allow the \$30.00 PUA, it did not correctly calculate the Petitioner's FoodShare benefits, effective November 1, 2014.

At the hearing the Petitioner reported that his rent went up to \$560.00 per month effective December 1, 2014. The Petitioner was told that he will have to complete a change report, which will increase the Petitioner's benefits for January 2015.

### **CONCLUSIONS OF LAW**

The agency did not correctly calculate the Petitioner's FoodShare allotment effective November 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the agency issue to the Petitioner FoodShare benefits totaling \$78.00 per month effective November 1, 2014. The agency shall take all administrative steps to complete this task within 10 days of this decision.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 12th day of December, 2014.

---

\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 12, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability